

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Closed Captioning and Video Description
of Video Programming

Implementation of Section 305 of the
Telecommunications Act of 1996

Video Programming Accessibility

MM Docket No. 95-176

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Commission

REPLY COMMENTS
OF VALUEVISION INTERNATIONAL, INC.

ValueVision International, Inc. ("ValueVision") respectfully submits these reply comments in the above-captioned proceeding.

Introduction

Founded in 1990, ValueVision is the third-largest television home shopping network. ValueVision provides television home shopping programming to approximately 16.4 million homes. Its programming, which is provided on a live basis 24 hours per day, is distributed through affiliation and time-block purchase agreements with cable systems and also via three television broadcast stations licensed to ValueVision or its subsidiaries. In addition, ValueVision's programming is broadcast over eleven owned or affiliated low power television

stations and is available to homes equipped with satellite dishes. The Commission's proposed regulations in this proceeding would require all of this live programming to be closed captioned.^{1/}

I. VALUEVISION AGREES WITH COMMENTERS THAT THE COSTS OF REAL TIME CAPTIONING FOR TELEVISION HOME SHOPPING PROGRAMS AS PROPOSED BY THE COMMISSION WOULD BE PROHIBITIVE.

Congress intended for the Commission specifically to consider "the cost of captioning, considering the relative size of the market served or the audience share."^{2/} In this regard, some commenters have urged the Commission to take into account the effect of captioning requirements on new networks.^{3/} And, as the Commission has already concluded, "real time captioning is difficult and requires considerable training and expertise."^{4/} As with other television home shopping programmers,^{5/} the cost of such captioning would be prohibitive for ValueVision.

^{1/} Closed Captioning and Video Description of Video Programming: Implementation of Section 305 of the Telecommunications Act of 1996 - Video Programming Accessibility, Notice of Proposed Rulemaking, MM Docket No. 95-176 (rel. Jan. 17, 1997) ("NPRM").

^{2/} H.R. Report 104-458, 104th Cong., 2d Sess. (1996) at 183.

^{3/} See, e.g., A&E Television Networks *et al.* Comments at 14; NCTA Comments at 20; Outdoor Life Network *et al.* Comments (proposing generic exemption for cable networks with fewer than 20 million subscribers). NCTA suggests that start-up networks should have ten years from their founding to provide captioning of new programming, and the Commission should consider whether to relieve networks with a limited subscriber base from captioning requirements, even after that period. NCTA Comments at 20.

^{4/} NPRM at ¶ 114

^{5/} See HSN Comments at 8; QVC Comments at 17-19.

Because all of ValueVision's programming is aired live, captioning costs cannot be spread over multiple showings or minimized through use of library programming.^{6/} The Commission estimates the cost of real time captioning to be between \$120 and \$1200 an hour.^{7/} The Fall 1996 hourly rates of the National Captioning Institute for live captioning ranged from \$120 for local news to \$600 for pay-per-view/special events.^{8/} Based on a conservative figure of \$400 per hour, ValueVision would incur a cost of approximately \$3.5 million per year to hire outside captioners for 24 hours per day of its programming.^{9/} That would amount to approximately 19% of ValueVision's net income for fiscal year 1997 and would increase substantially what is now a relatively small operating loss. The fact that providing real time captioning would amount to almost one fifth of ValueVision's net income illustrates the disproportionate burden that would be imposed by requiring live captioning.

^{6/} NPRM at ¶ 58.

^{7/} *Id.* at ¶¶ 20, 115. The price range may reflect a variation in the quality of the captioning or the complexity of the programming.

^{8/} National Captioning Institute Comments (attachment).

^{9/} *See also* QVC Comments at 17. It is unclear that ValueVision could even find the necessary captioners since the availability of real time captioning is limited. The National Captioning Institute recently estimated upon inquiry by The Weather Channel that there are fewer than 200 captioners world-wide able to caption in real-time. The Weather Channel, also a 24- hour live programmer, estimates that it alone would require approximately 12-14 captioners to provide live captioning. *See* The Weather Channel Comments at 4; *see also* NPRM at ¶ 24 (estimate 100 - 500 captioners available).

II. BECAUSE THE PROHIBITIVE COSTS OF LIVE CAPTIONING WOULD OUTWEIGH ANY INCREMENTAL BENEFITS, AN EXEMPTION FOR HOME SHOPPING PROGRAMMING WOULD BEST BALANCE THE REQUIRED STATUTORY FACTORS.

In order to strike a balance between this substantial economic burden and the goal of making video programming fully accessible,^{10/} the Commission has proposed to exempt certain classes of programming, including primarily textual programming and possibly commercials. The Commission recognizes that home shopping programs are similar in some ways to commercials in that they are intended to sell products and present a portion of the information provided to consumers in textual form. However, in the belief that not all of the descriptive material and information provided by home shopping program hosts is currently available in textual form on the television screen, the Commission has tentatively concluded that home shopping programming should not be exempt.^{11/}

As commenters show, however, home shopping programs do provide substantial textual information on screen.^{12/} ValueVision's programming displays products so that consumers can see them. ValueVision's on-screen textual information typically includes the product's price, size, order number, colors, the telephone number and address for ordering the products, and acceptable payment methods. For more complex products, ValueVision displays one or more screens presenting additional information on the features of the products. This expanded textual material is routinely displayed for consumer electronic equipment such as computers and fax

^{10/} NPRM at ¶ 70.

^{11/} *Id.* at ¶ 78.

^{12/} See HSN Comments at 5; NIMA Comments at 7; Paxson Comments at 7-8; QVC Comments at 10-13.

machines and for certain houseware items and exercise equipment. In addition, ValueVision is currently establishing a position on the Internet that will allow customers to access greater information regarding specific products.

ValueVision agrees with commenters that the benefit of closed captioning to hearing-impaired viewers, if any, would be minimal. Through the display of products and the extensive use of textual information, ValueVision's programming is already accessible. The hosts of ValueVision's programming are directed to convey verbally certain information on the products, much of which is included in the on-screen textual information. Adding closed captioning likely would block much of this critical information. Closed captioning likely would have to be superimposed on the textual information that appears as a frame around the visual image of the product. Moreover, as commenters have noted, live captioning is often inaccurate.^{13/} Because of on-screen space limitations and the risk of inaccuracy, closed captioning could easily result in a net loss of information to the viewer.^{14/}

ValueVision asks the Commission to reassess its tentative conclusion that home shopping programming does not warrant an exemption in light of limited availability of on-screen information. In fact, as demonstrated above, home shopping programming provides accessibility to hearing impaired-viewers through extensive on-screen information. The prohibitive costs of live captioning far outweigh the incremental benefits, if any, that might result from such captioning. Thus, the balancing required by the statute calls for an exemption for home shopping programming.

^{13/} See HSN Comments at 5; QVC Comments at 21.

^{14/} See HSN Comments at 6; QVC Comments at 2.

Conclusion

For the foregoing reasons, the Commission should exempt home shopping networks from mandatory closed captioning requirements.

Respectfully submitted,

VALUEVISION INTERNATIONAL, INC.

A handwritten signature in dark ink, appearing to read "William R. Richardson, Jr.", written over a horizontal line.

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